

UNITED STATES COURT OF APPEALS

**Filed 6/24/96**

TENTH CIRCUIT

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GWENDOLYN MARIE WILSON

Plaintiff-Appellant,

v.

THE PRUDENTIAL LIFE  
INSURANCE COMPANY,

Defendant-Appellee.

No. 96-2066  
(D.C. No. CV-95-1048 LH)  
(D. N.M.)

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ORDER AND JUDGMENT\*

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Before TACHA, BALDOCK, and BRISCOE, Circuit Judges.

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After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

Gwendolyn Marie Wilson appeals the dismissal of her complaint against The Prudential Life Insurance Company. Wilson was evidently denied issuance of a life

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\* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

insurance policy because of a determination of medical risk by an agent for the company without a medical examination.

The district court found Wilson's original complaint to be frivolous and lacking in any basis for relief and allowed Wilson to amend her complaint. The court then found the amended complaint to be "even less comprehensible or demonstrative of any basis for judicial action," and dismissed the action.

Wilson contends the medical risk determination was fraudulent as she has no history of alcohol abuse and no evidence was presented to support the determination. She argues the agent never issued a written request that she submit to a medical examination.

We have carefully examined Wilson's appellate brief, the pleadings, and the entire record on appeal and find that the district court did not err in dismissing the action.

AFFIRMED. The mandate shall issue forthwith.

Entered for the Court

Mary Beck Briscoe  
Circuit Judge